

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Truth-in-Billing and)	CC Docket No. 98-170
Billing Format)	CG Docket No. 04-208

REPLY COMMENTS OF QWEST CORPORATION,
QWEST COMMUNICATIONS CORPORATION,
QWEST WIRELESS LLC AND QWEST LD CORP.

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SUMMARY

The Commission should not require carriers to use standardized language or require a separate, segregated section in their bills for government “mandated” charges or regulate the content of line items. Government intervention in carrier communications and publications such as bills is an extreme remedy, and it should not be done absent compelling evidence of public harm. In the present case, there has been no demonstration that the sort of additional federal regulations proposed in the *Second Further Notice* will serve the public interest. Quite to the contrary, a number of commentors have submitted compelling information that the proposed rules will be expensive and burdensome, and that they will neither reduce customer confusion nor improve competition if they are adopted.

The Commission already regulates carrier billing through its existing truth-in-billing rules. Rather than adopting new, additional rules governing carrier billing, the Commission should enforce its existing rules where it perceives a compliance problem.

As an alternative to more regulation, Qwest favors the adoption of a “safe harbor” set of standards for billing terminology, which carriers could voluntarily adopt if they chose. This approach is cost-effective and has the benefit of greater flexibility, since it gives carriers the choice of using the safe harbor terminology as a means of complying with the Commission’s truth-in-billing rules.

Lastly, the Commission should abandon the notion of government-mandated point-of-sale communications. Point-of-sale communications are not “billing,” and are at least one step removed from billing communications between a carrier and its customers. No party to this proceeding has yet demonstrated that such communications are essential to protect the public interest, and it is clear that they could actually cause customer confusion.

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Qwest Corporation, Qwest Communications Corporation, Qwest Wireless LLC and Qwest LD Corp. (collectively “Qwest”) submit these reply comments in response to the comments filed with respect to the *Second Further Notice of Proposed Rulemaking* in the above-captioned proceeding.¹ Qwest agrees with those commentators who persuasively argue that no additional federal regulation of carrier billing is necessary beyond the Federal Communications Commission’s (“Commission”) existing truth-in-billing rules. Additional regulation is not in the public interest and will impose substantial burdens both on carriers and consumers.

I. **IT HAS NOT BEEN DEMONSTRATED THAT ADDITIONAL FEDERAL REGULATION OF CARRIERS’ BILLS IS IN THE PUBLIC INTEREST**

Government intervention in carrier communications and publications such as bills is an extreme remedy. It should not be done absent compelling evidence of public harm. In the present case, additional federal regulations such as those proposed in the *Second Further Notice* have not been demonstrated to serve the public interest.

¹ See *In the Matter of Truth-in-Billing and Billing Format, National Association of State Utility Consumer Advocates’ Petition for Declaratory Ruling Regarding Truth-in-Billing, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking*, 20 FCC Rcd 6448 (2005)(“*Second Report and Order*” or “*Declaratory Ruling*” or “*Second Further Notice*” as the text requires), *pets. for review pending sub nom. NASUCA v. FCC*, No. 05-11682, filed Mar. 28, 2005 (11th Cir.).

Qwest agrees with the comments filed by BellSouth, AT&T Corp. (“AT&T”), SBC Communications (“SBC”), Verizon Wireless, MCI, Inc. (“MCI”), and the Coalition for a Competitive Telecommunications Market (“CCTM”), as well as with the joint comments by the National Telecommunications Cooperative Association, the Association for the Promotion and Advancement of Small Telecommunications Companies and the Western Telecommunications Alliance (jointly, “NTCA”), all of which demonstrate that the Commission should not require carriers to use standardized language or require a separate, segregated section in their bills for government “mandated” charges or regulate the content of line items.²

The Commission’s current truth-in-billing rules already require truthfulness and clarity.³ And as Qwest stated in its initial comments, and as others concur, customer bills are routinely the primary and most important communication between carriers and their customers.⁴ The format, content and appearance of bills have become a significant point of competition between telecommunications carriers for customers.⁵ As such, carriers not only have a legal requirement but an economic incentive to ensure that their bills are clear, accurate and comprehensive.⁶

² See BellSouth comments at 2, 8-10; AT&T comments at 6-7; MCI comments at 3-6; SBC comments at 7-9; Verizon comments at 7-8; CCTM comments at 13-16; *see also* Verizon Wireless comments at 36-45 (arguing that the Commission should not impose billing rules governing terminology or separation that are different from the Assurance of Voluntary Compliance (“AVC”) into which wireless carriers have already entered).

³ See Verizon comments at 1-7; AT&T comments at 1-3, 4-13; SBC comments at 4-11; BellSouth comments at 2-3, 8-11; United States Cellular Corporation (“USCC”) comments at 1-9; MCI comments at 1-12. In addition, Qwest agrees in part with the comments filed by Nextel Communications, Inc. and Nextel Partners, Inc. (“Nextel”) that the Commission should not adopt certain “universal labeling” requirements. *See, e.g.*, Nextel comments at 15-17.

⁴ See Qwest comments at 5-9

⁵ See Verizon comments at 4-8, 12; Nextel comments at 7-8; Verizon Wireless comments at 41; AT&T comments at 8.

⁶ See Verizon comments at 4-8, 12.

In contrast, the proposed regulations in the *Second Further Notice* will neither reduce customer confusion nor improve competition should they be adopted.⁷ As Verizon Wireless points out, there is no evidence in the record nor any compelling arguments that the proposed regulations outlined in the *Second Further Notice* will be as effective in reducing customer confusion as the processes that carriers engage in on their own to simplify and clarify their bills, a process benefited by direct input from their customers and a desire to achieve customer satisfaction.⁸ Based on Qwest's own experience in designing its bill with customers' input and desires in mind, Qwest agrees with Verizon as well as with BellSouth that customers want simplification and clarity in their bills, not more pages and sections.⁹

Qwest agrees with BellSouth, the NTCA and with the CCTM that federal regulation of carriers' bills may actually make billing more confusing and frustrating for consumers than is presently the case.¹⁰ As BellSouth points out, a separate bill section may actually make bills more confusing and less user-friendly than they are now, since customers are accustomed to having taxes and surcharges shown in close proximity to the telecommunications services to which they apply.¹¹

It is also apparent that compliance with the proposed regulations would be expensive, since any new rules would force carriers to redesign their bills and upgrade their existing billing

⁷ See, e.g., Verizon comments at 1-7; AT&T comments at 1-3, 4-13; SBC comments at 4-11; BellSouth comments at 2-3, 8-11; USCC comments at 1-9; MCI comments at 1-12.

⁸ See Verizon Wireless comments at 41.

⁹ See BellSouth comments at 8-9.

¹⁰ See NTCA comments at 2-3; CCTM comments at 9-11.

¹¹ See BellSouth comments at 8-10.

systems.¹² These costs would inevitably be passed off to consumers. Moreover, Qwest agrees with the NTCA and Nextel that the costs imposed by complying with the new regulations would be unproductive and would divert funds that carriers would otherwise use to upgrade their services.¹³

In contrast to those arguing against additional federal regulation of carrier bills, the supporters of additional regulation have not provided convincing evidence to support their advocacy. The National Association of State Utility Consumer Advocates (“NASUCA”), as well as the other parties that favor adoption of the regulations proposed in the *Second Further Notice*, fail to make the case that the *only* -- or even the best -- resolution to purported consumer confusion and associated billing problems is through new and more restrictive regulations of carrier billing.¹⁴ Rather, in many cases, commenting parties seek to extend the privately-negotiated AVC agreements that were recently negotiated between a group of Commercial Mobile Radio Service (“CMRS”) providers and the attorneys general of numerous states, or the specifics of the CTIA Consumer Code,¹⁵ to an industry that has not been demonstrated to have

¹² See, e.g., MCI comments at 3-4. MCI asserts that it would take \$5.3 million and 12 to 18 months of work to implement the necessary changes to its billing systems. See also, NTCA comments at 2 (detailing carrier expenses of complying with the Commission’s 1999 Truth-In-Billing order) and Nextel comments at 2-6 (detailing expense of new billing system, and the expense and difficulty of adjusting to meet new regulatory mandates).

¹³ See NTCA comments at 3; Nextel comments at ii, 4-8.

¹⁴ See, e.g., NASUCA comments at 4-11; see also Sprint comments at 1-7; Public Service Commission of the State of Missouri (“Missouri PSC”) comments at 1-7; Texas Office of Public Utility Counsel (“Texas OPC”) comments at 1-6; Attorneys General of the Undersigned States (“Attorneys General”) comments at 1-13; AARP, Asian Law Caucus, Consumers Union, Disability Rights Advocates, National Association of State PIRGS and the National Consumer Law Center (jointly, “AARP”) comments at 2-3, 6-12; Dobson Communications Corporation (“Dobson Communications”) comments at 2-6.

¹⁵ See NASUCA comments at 11-12; AARP comments at 7-8; Texas OPC comments at 4-6; Cingular Wireless comments at 7.

violated any law, rule, or truthful billing criteria. These parties do not consider alternatives, particularly whether enforcement actions or *voluntary* industry codes might be a superior, and cost-effective alternative to intensive, restrictive and expensive regulations such as those proposed in the *Second Further Notice*. Their comments contain almost no analyses of the cost implications of the proposals, and they fail to demonstrate that the public interest is benefited by burdening the entire telecommunications industry with additional truth-in-billing rules.

On balance, the commentators opposing the regulations proposed in the *Second Further Notice* present a much stronger case than those parties urging further government intervention. They have provided substantial facts and evidence that new, additional rules would cause more harm than good. The Commission should rethink the assumptions it has made in the *Second Further Notice* and should examine the costs and benefits of its proposals. Absent such analysis, the Commission cannot be confident that any new regulations are necessary to serve the public interest.

II. RATHER THAN ADOPTING NEW CARRIER BILLING RULES, THE COMMISSION SHOULD ENFORCE ITS EXISTING RULES WHERE IT PERCEIVES A COMPLIANCE PROBLEM

The Commission's existing truth-in-billing rules are sufficient federal regulation of carriers' billings. Rather than adopting new, additional rules governing carrier billing, the Commission should enforce its existing rules where it perceives a compliance problem.

As discussed above, the Commission's current truth-in-billing rules already require truthfulness and clarity.¹⁶ Qwest therefore agrees with AT&T, Verizon, SBC, MCI, the USCC,

¹⁶ See Verizon comments at 1-7; AT&T comments at 1-3, 4-13; SBC comments at 4-11; BellSouth comments at 2-3, 8-11; USCC comments at 1-9; MCI comments at 1-12. In addition, Qwest agrees in part with the comments filed by Nextel Communications, Inc. and Nextel that the Commission should not adopt certain "universal labeling" requirements. See, e.g., Nextel comments at 15-17.

as well as with NTCA that the regulations proposed in the *Second Further Notice* are unnecessary, particularly when they are redundant of the Commission's existing rules.¹⁷

To the extent the Commission (or any other entity) believes that a carrier is failing to achieve those standards, enforcement regimes are readily available. Targeted enforcement of existing Commission rules would reign in those carriers whose billing activities have crossed the line into the realm of unreasonableness without burdening an entire industry with added regulation. This approach would be more in line with the "pro-competitive, deregulatory" national policy framework incorporated in the Telecommunications Act of 1996.¹⁸

III. "SAFE HARBOR" STANDARDIZED LABELLING HAS SUPPORT WITHIN THE INDUSTRY

In addition to using targeted enforcement actions, another less restrictive and less expensive alternative to the formatting and content proposals contained in the *Second Further Notice* would be the establishment of a "safe harbor" set of standards for billing terminology, which carriers could voluntarily adopt at their option.¹⁹ Qwest agrees with BellSouth, Verizon Wireless, Cingular Wireless and Dobson Communications that a safe harbor approach has the benefit of flexibility: it permits carriers to go outside of the safe harbor and design the descriptions used in their own bills if they choose, while giving other carriers that use the safe harbor terminology a degree of certainty that their bills are going to comport with the

¹⁷ See BellSouth comments at 8-13; AT&T comments at 4-11; MCI comments at 3-11; SBC comments at 6-10; Verizon comments at 6-8; USCC comments at 4-8.

¹⁸ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. (1996). *And see* Joint Explanatory Statement of the Committee of Conference, S.Conf. Rep. No. 230, 104th Cong., 2d Sess. 113 (1996).

¹⁹ See Qwest comments at 4-6.

Commission's truth-in-billing rules.²⁰ Qwest also agrees with BellSouth that voluntary moves by carriers towards using safe harbor language will be more cost-effective than the rapid changes which would be necessary to comply with new, mandatory regulations.²¹

IV. POINT OF SALE COMMUNICATIONS ARE NOT BILLING REGULATIONS AND NO COMMENTOR HAS PROVEN THEY ARE NECESSARY

The Commission should abandon the notion of government-mandated point-of-sale communications. Such communications are not "billing." Point-of-sale communications are at least one step removed from billing communications between a carrier and its customers. Moreover, no party to this proceeding has yet demonstrated that such communications are essential across the telecommunications industry to protect the public interest.

As noted by the *Second Further Notice*, point of sale communications are now part of the sales practices of a number of wireless carriers as the result of voluntary agreements between those carriers and government officials.²² The Commission should allow time to pass so that it can determine if the "problem" advocates of point-of-sale communications want resolved gets resolved through the private agreements. A "wait and see" period is particularly appropriate before the Commission acts to extend remedies voluntarily assumed by the wireless industry onto wireline carriers. The existing record is absent any material evidence that the wireline industry currently fails to adequately communicate with its customers regarding prices, terms and conditions.²³

²⁰ See BellSouth comments at 12-14; Verizon Wireless comments at 38-39; Cingular Wireless comments at 46-47, 52-54; Dobson Communications comments at 2, 8. In addition, Sprint notes that it is "not opposed" to the use of safe harbor language. See Sprint comments at 19-21.

²¹ See BellSouth comments at 13-14.

²² See *Second Further Notice*, 20 FCC Rcd at 6476-77 ¶ 55.

²³ See AT&T comments at 12 and CCTM comments at 12-13.

Qwest agrees with Verizon, SBC and the CCTM that the point-of-sale proposals outlined in the *Second Further Notice* could well make things worse from a “customer experience” perspective.²⁴ To the notable frustration of time-pinch customers, carriers already request substantial amounts of information from new customers at the point of sale and make a number of time-consuming disclosures. These disclosures take many minutes to complete.²⁵ Requiring carriers to disclose even more information to customers at the point of sale will result in a sales process that is even more time-consuming and legalistic than it is at the present.²⁶

In addition to the policy issue associated with government intervention prior to demonstrated unreasonable carrier actions, there are practical problems to Commission-mandated point-of-sale communications. Carrier representatives would be burdened by the need to recite long litanyies that are intended to “disclose” the range of additional expenses that may apply to the telecommunications services that the end user is purchasing, as well as the underlying assumptions of these disclosures and legal disclaimers.²⁷ Carriers could find it very difficult to determine the exact amount of all of the potential taxes, fees and surcharges that will apply to a new customer’s service due to the number of variables involved.²⁸

²⁴ See Verizon comments at 7-12; SBC comments at 10-11; CCTM comments at 9-11.

²⁵ See Verizon comments at 7-12; SBC comments at 10-11; CCTM comments at 9-11.

²⁶ *Accord*, SBC comments at 10-11 (noting that customers already consider sales calls too lengthy, and SBC’s ability to shorten calls is already hampered by the existing regulatory disclosures that they must make). The proposed regulations will produce a process burdened by additional detail, as well as the lengthened sales calls and references to confusing sales literature, all of which will be packed with information consumers will find inordinately difficult to understand. See CCTM comments at 11.

²⁷ See CCTM comments at 9-11.

²⁸ A wide variety of taxes, fees and surcharges could apply to a new customer’s service. See CCTM comments at 9-11. Nextel correctly observes that it would be nearly impossible for carriers to estimate the cost of future surcharges or tax changes when giving customers a “reasonable estimate of government mandated surcharges” at the point of sale. See Nextel

Qwest agrees with Verizon that calculation of these charges at the point of sale would be challenging and not of much practical utility.²⁹ Nationally, there is a wide variety of local, state and federal taxes and surcharges that may apply to telecommunications services based on where the customer lives and what types of service the customer is ordering.³⁰ This complexity increases when a customer orders a bundle of services -- such as wireline service, wireless service, Internet service and television service in a single package. The rates of these taxes and surcharges are constantly changing and require constant monitoring.³¹

Rather than point-of-sale communications such as those proposed in the *Second Further Notice* being easy, effortless communications as the *Notice* apparently assumes, predicting a “reasonable estimate” of these surcharges would require carriers to do individualized estimates that cross-reference a number of variables. Such complex calculations would undoubtedly require extensive computerization, with direct links from a central database to the place where the sales are being consummated.³² This database would need to be constantly maintained, at additional trouble and expense. And providing the estimates to customers would remain difficult to provide in real time, while a consumer impatiently answers a carrier’s questions and waits for it to do the calculations.

comments at 19; *see also* BellSouth comments at 14-16 (pointing out that when surcharges are usage-based, and a carrier has no customer history on which to base its estimates, it will be “impossible” to give such an estimate). As noted in its opening comments, Qwest currently makes point-of-sale communications in certain circumstances. *See* Qwest comments at 15, n.38. That self-crafted scripting is something Qwest is comfortable with, obviously.

²⁹ *See* Verizon comments at 8; *see also* CCTM comments at 9-11.

³⁰ *See* Verizon comments at 8-9 and 10-11; *see also* CCTM comments at 11.

³¹ *See* Nextel comments at 19.

³² *See, e.g.,* Verizon comments at 11 n.8. Like Verizon, Qwest strongly doubts that sales personnel could simply link to its existing billing systems, or that these systems could be adopted to provide real-time surcharge estimates to potential customers.

Carriers such as Qwest would not only have to redesign their basic customer communication processes associated with customers' inbound calls, but would need to revisit the manner in which they conduct sales through outbound marketing, sales kiosks or the other decentralized retail locations. Qwest notes that compliance will be even more difficult and expensive if the sales location is mobile, or if no computerized solutions were possible.³³

The better approach to tax and surcharge disclosures, from the perspective of a positive customer experience as well as a direct correlation between a desire for information and its delivery is that proposed by SBC. SBC proposes that carriers provide more detailed information on taxes and surcharges at the request of individual customers.³⁴ As SBC correctly indicates, this approach gives customers control over how much information they want to receive, as well as the length of the sales contact.³⁵

V. CONCLUSION

In light of the foregoing, the Commission should not adopt the regulations proposed in the *Second Further Notice*. It is clear that the costs and burdens of the additional regulations will be substantial and that additional regulation will not serve the public interest. The Commission should consider less expensive and less burdensome alternatives such as prosecuting individual

³³ For example, Verizon suggest that carriers might distribute manuals to their sales personnel so that they can calculate the estimates on the spot, using a calculator. *See* Verizon comments at 11-12. Verizon correctly notes that the cost to train its sales personnel to do this would be enormous, and would significantly add to its costs in terms of the handling time for order processing. *Id.*

³⁴ *See* SBC comments at 10-11.

³⁵ *See id.* at 10-11.

carriers that violate the existing truth-in-billing standards or establishing safe harbor standards for terminology.

Respectfully submitted,

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July 25, 2005

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **REPLY**
COMMENTS OF QWEST CORPORATION, QWEST COMMUNICATIONS
CORPORATION, QWEST WIRELESS LLC AND QWEST LD CORP.

to be 1) filed with the FCC via its Electronic Comment Filing System in CC Docket No. 98-170
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and Printing, Inc. (at fcc@bcpiweb.com) and 3) served, via first class United States Mail,
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